

THE PRESIDENT: Delegate Henderson.

DELEGATE HENDERSON: I suggest that Delegate Hardwicke is putting words in the mouth of the Chairman which I do not think really belong there. As I recall the colloquy, I think it was Delegate Case who referred particularly to the decision of the Court of Appeals which had thrown out all of the subsidiary tests and relied upon the words in the constitutional amendment which referred to agricultural use. The Court of Appeals said, in effect, that that was the only test. The Committee as reported on the floor here intended to overrule that Court of Appeals decision, and I suggest that the use of the word "agricultural property" as defined gives a very wide discretion to the legislature to define "agriculture" and impose many other tests besides that of use so that use no longer remains the absolute or only test.

THE PRESIDENT: Are there any further questions of the Committee Chairman?

Delegate Adkins.

DELEGATE ADKINS: I should like to pose a specific question to the Chairman and ask him whether or not the language of the proposed amendment here is broad enough to permit the legislature to define as "agricultural property" that property which is zoned either residential or industrial but, in fact, is used for a bona fide agricultural use. In other words, if the property is zoned as other than agricultural, may the legislature still provide a definition which would permit that property to be included as agricultural?

THE PRESIDENT: Delegate Penniman.

DELEGATE PENNIMAN: I do not think that I can answer that question.

THE PRESIDENT: I think that is more properly a question for the Chairman of the Committee.

Delegate Sherbow, can you respond to the question?

DELEGATE SHERBOW: Yes.

Zoning classifications are only one item that could be considered. The language here is meant to be, as Judge Henderson has pointed out, not the Court of Appeals language based on the exact words of the constitutional amendment, but rather is meant to give the state legislature, and the Bureau of Assessments and Taxation in carrying out the law a whole series of items to be considered.

Now, zoning would be one of them. The use to which the land is put actually would be another. For example, you could have agricultural property which has lain there perhaps for twenty-five years and nothing has ever been done which could be classified for agricultural purposes. At the same time you might have property that is in another area that has been zoned differently that would not be agricultural. There are, I believe, about thirty to thirty-five different matters all of which would be hopefully taken up for consideration in determining whether or not it is property that is agricultural property as defined by the General Assembly and as further redefined by the governmental body which will carry out the General Assembly's law.

THE PRESIDENT: Delegate Adkins.

DELEGATE ADKINS: I do not disagree with what the distinguished Chairman says, but may I again ask him specifically whether or not the fact that property is zoned residential or industrial would prevent it from being defined under a reasonable standard set by the legislature as agricultural property.

THE PRESIDENT: Delegate Sherbow.

DELEGATE SHERBOW: No, not in my judgment. If it is in fact property that would be agricultural property, that comes within the definitions. The mere fact that it is zoned one way would not be the end to its consideration and a finality. The answer is no.

THE PRESIDENT: Delegate Adkins.

DELEGATE ADKINS: I understand then the record is quite clear so far as the Chairman of the Committee on State Finance and Taxation is concerned. The zoning is not finally determinative, although it may be an element, of property which is agricultural property in the sense of the constitutional language used here.

THE PRESIDENT: Delegate Sherbow.

DELEGATE SHERBOW: That statement is correct.

THE PRESIDENT: Any other questions?

Delegate Hanson.

DELEGATE HANSON: Mr. Chairman, this may be a question of substance. In light of Delegate Adkins' question and Delegate Sherbow's response, could this section then be construed to make unconstitutional the kind of legislation which